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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/604,394	07/17/2003	Nadi S. Findikli	U02-0216.40	1393
54494 7590 05/31/2007 MOORE AND VAN ALLEN PLLC FOR SEMC P.O. BOX 13706 430 DAVIS DRIVE, SUITE 500 RESEARCH TRIANGLE PARK, NC 27709			EXAMINER D AGOSTA, STEPHEN M	
			ART UNIT 2617	PAPER NUMBER
			MAIL DATE 05/31/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/604,394	Applicant(s) FINDIKLI, NADI S.	
	Examiner Stephen M. D'Agosta	Art Unit 2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 May 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 6-17, 24-26, 29, 34-37, 42, 47, 48 and 50-58 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 7-17, 25-26, 35-37, 42, 48 and 50-58 is/are rejected.
- 7) ☒ Claim(s) 6, 24, 34 and 47 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 7-17, 25-26, 29, 35-37, 42, 48 and 50-58 rejected under 35 U.S.C. 103(a) as being unpatentable over Blow WO99-53621 and further in view of Imamatsu US 2004/0073901 and Misra et al. US 6,189,146 ~~{Chen et al. US 6,496,979 or McGuire et al. US 6,493,871}~~.

As per **claims 1, 17, 29, 37 and 42**, Blow teaches a method of operating a mobile phone accessory possessing one or more software programs and communicable with a mobile phone (title, abstract), the method comprising:

(a) establishing a short range (page 3, L15-37) communication link between the mobile phone and the mobile phone accessory (figure 1 shows mobile device #100 connecting to mobile accessory #102 via communications interface #112);

(b) exchanging data between the mobile phone and the mobile phone accessory via the short range link (p3, L15-37) between the mobile and accessory device, (Summary, page 2, teaches connecting the two devices and the mobile downloading control software/data from the accessory. Also see page 6, L4-10 and further thru Line39); and

(c)transferring only the software program(s) from the mobile phone accessory to the mobile phone via the short range communication link (Summary, page 2, teaches transferring data from the accessory to the phone);

whether the phone is authorized to receive/host the program (page 5, L37 to page 6, L3);

but is silent on the data pertaining to one or more software programs resident on the first apparatus (mobile phone accessory) and the ability of the second apparatus (mobile phone) to download and execute the software, wherein the data is used to determine what software to transfer from the first apparatus (mobile phone accessory) to the second apparatus (mobile phone), the technical requirements of the phone necessary to host and execute the software program(s) on the mobile, whether the one or more programs are licensed for use with the mobile phone to be received from the phone accessory and that meet the technical and licensing necessary to host and execute the program(s) on the mobile phone.

The examiner notes that version control systems can provide automatic "scanning" of apparatuses such that out-of-date software is updated.

Imamatsu who discloses updating one or more programs on a phone:

"..The above-described object of the present invention are achieved by a method for updating software in a radio terminal device of a mobile communication system, wherein a base station and radio terminal devices are connected mutually through radio communication channels, including the steps of:

notifying version information on a control-software presently involved in operations of the radio terminal device to a software-supply device connected to a network by the radio terminal device;

determining a necessity of updating the control-software by comparing the version information received from the radio terminal device with latest version information stored in and managed by the software-supply device; and

downloading new control-software that is appropriate to update the version of the control-software to the radio terminal device by the software-supply device if updating of the control-software is needed. C2, L15-35.

Imamatsu can determine if a phone has a software program already installed and thus determines if a phone can execute the software simply by determining that a version is already installed on said phone. This is also true for licensing since a phone that is licensed to receive software will have already been checked, hence Imamatsu inherently sees that the phone is licensed if it has a version installed.

~~Different embodiments of "software version control" are further seen by Chen who discloses updating "applications" for mobile devices (Abstract, and figures 7-10) while McGuire teaches generic installation of software updates between a "client" and a "server" (Abstract, figures 2-3, 5-6 and 12).~~

Hence the examiner notes that there are many different devices that can be connected as well as many different updates and update procedures that can be envisioned based on what the mobile device had previously loaded.

Misra teaches a software licensing system whereby the licensing is verified and when a license is needed, the license server "determines the client's operating system platform and grants the appropriate license" (Abstract) which reads on determining if a device can use the software and what operating characteristics are required (eg. technical requirements).

With further regard to claim 17, Blow teaches an accessory controller (which read on "an accessory interaction handler within the mobile phone", Figure 1, #108).

It would have been obvious to one skilled in the art at the time of the invention to modify Blow, such that the data pertaining to one or more software programs resident on the first apparatus (mobile phone accessory) and the ability of the second apparatus (mobile phone) to download and execute the software, wherein the data is used to determine what software to transfer from the first apparatus (mobile phone accessory) to the second apparatus (mobile phone), the technical requirements of the phone necessary to host and execute the software program(s) on the mobile, whether the one or more programs are licensed for use with the mobile phone to be received from the phone accessory and that meet the technical and licensing necessary to host and execute the program(s) on the mobile phone, to provide means for determining if the phone is licensed to use the software and if it can host it as well.

As per **claims 8-10 and 50-52**, The combo teaches claim 1 wherein the communication link is a wireless RF link/cabled link/optical link (page 3, L35 to page 4, L2 teaches wired/wireless means).

As per **claims 7 and 48**, The combo teaches claim 1/42 **but is silent on** wherein the software is encrypted before the transferring step.

The combo teaches using authentication means to verify the user (Summary) which implies "security measures" being used. Hence one skilled would encrypt the link if sensitive data is being transmitted. The examiner ~~takes Official Notice~~ notes that transmitting data in encrypted fashion is well known and that his teaching of "other authentication" would include encryption, see page 5, L37 to page 6, L3).

It would have been obvious to one skilled in the art at the time of the invention to modify The combo, such that the software is encrypted before the transferring step, to provide means for protecting against piracy/stealing of the software.

As per **claim 11-13, 15-16 and 53-55 and 57-58**, The combo teaches claim 1/42 **but is silent on** wherein the software is a java script/HTML script/XML script (Summary, page 2, teaches downloading of generic software, which the examiner interprets as being virtually any type of language, ie. C, C++, Fortran, Java, HTML, XML, BREW - Binary Runtime Environment for Wireless, etc.).

The examiner ~~takes Official Notice~~ notes that mobile phones can download software code/script from remote sites.

Imamatsu who discloses updating one or more programs on a phone:

"..The above-described object of the present invention are achieved by a method for updating software in a radio terminal device of a mobile communication system, wherein a base station and radio terminal devices are connected mutually through radio communication channels, including the steps of:

notifying version information on a control-software presently involved in operations of the radio terminal device to

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a software-supply device connected to a network by the radio terminal device;

determining a necessity of updating the control-software by comparing the version information received from the radio terminal device with latest version information stored in and managed by the software-supply device; and

downloading new control-software that is appropriate to update the version of the control-software to the radio terminal device by the software-supply device if updating of the control-software is needed. C2, L15-35.

It would have been obvious to one skilled in the art at the time of the invention to modify The combo, such that the software is a java script/HTML script/XML script/C/C++, to provide support for industry standard software coding languages.

As per **claims 14 and 56**, The combo teaches claim 1/42 wherein the software is a native application specific to the mobile phone (Summary and pages 2-3 teach downloading software to the phone so that it can operate a specific accessory, which would be specific to that particular phone).

As per **claims 25, 35 and 40**, The combo teaches claim 1/17/29 wherein the mobile phone comprises memory for storing the software/programs (figure 1, #104 and #106).

As per **claims 26 and 36**, The combo teaches claim 17/29 wherein the mobile phone further comprises at least one application program interface (API) coupled with a processor for executing the transferred software (page 5, L8-9 and page 6, L26-30 and page 7, L6-15 teach a processor/controller executing the downloaded software).

Claims 6, 24, 34 and 47 rejected under 35 U.S.C. 103(a) as being unpatentable over Blow/Imamatsu/Chen or McGuire and further in view of Nenashev US 6,976,167.

As per **claims 6, 24, 34 and 47**, The combo teaches claim 1/17/29/42 **but is silent** further comprising verifying that the transferred software has not been tampered with since its creation.

Nenashev teaches determining if software has been tampered with based on a "fingerprint":

The tamper-resistant high-security software protection mechanism 100 traces software tampering through a dynamically computed fingerprint (120a or 120b). A fingerprint is a unique identifier of the protected portion 115 and is computed on-the-fly based on some invariant characteristics of the protected portion 115. Invariant characteristics used to generate a fingerprint may be determined in such a way that they are invariant with respect to different executions, if there is no tampering act, yet sensitive to any change introduced by tampering acts. For example, the content of a random access memory (RAM) block allocated to an object does not change between executions unless the source code is changed. In this case, the region between the starting and the ending address of such a block may be used as an invariant characteristic in computing a fingerprint. As will be apparent to those skilled in the art, any number of invariant characteristics can be used to compute a fingerprint and any number of algorithms can be used to generate the fingerprint based on invariant characteristics. (C2, L47-57)

It would have been obvious to one skilled in the art at the time of the invention to modify The combo, such that it verifies that the transferred software has not been tampered with since its creation, to provide protection against viruses/worms/etc. being inserted into the code.

Allowable Subject Matter

Claims 6, 24, 34 and 47 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen M. D'Agosta whose telephone number is 571-272-7862. The examiner can normally be reached on M-F, 8am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bill Trost can be reached on 571-272-7872. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

STEVE M. D'AGOSTA
PRIMARY EXAMINER

[Handwritten signature]
5-24-07